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JCS FOR J5
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TAGS: [PARM](#) [PREL](#) [OSCE](#) [KCFE](#) [MCAP](#) [MOPS](#) [XG](#)
SUBJECT: FSC JUNE 25: LITTLE CONTROVERSY IN PRIVATE
MILITARY COMPANIES SECURITY DIALOGUE

11. (SBU) Summary: Austrian Brigadier Feichtinger described the increasing importance of private military/security companies as a "worrisome development" that challenges the democratic control of the armed forces and the state's monopoly on the legitimate use of violence. The U.S., in response, noted recent U.S. initiatives to enhance the discipline and accountability of contractor personnel in war zones. The FSC adopted a decision endorsing for publication Best Practices Guides on the destruction and physical security of stockpiles of conventional ammunition.

12. (SBU) In the working groups, discussion continued on the draft decision on updating the OSCE conventional arms transfers reporting categories, although there was no objection to the latest version's deletion of both automatic updates and the provision of information to the UN on arms transfers with non-participating States. Several delegations endorsed the Belarusian proposal for an information exchange and Conflict Prevention Center analysis on end-user certificates. After discussion of the latest version of the Franco-Belgian proposal for an information exchange and "Best Practices" on transfer of small arms and light weapons by air the chair announced she would reissue the paper as a draft decision. The proposed update of the Code of Conduct Questionnaire was partially redrafted and another version will soon be issued. End summary.

Security Dialogue: Private Military Companies

13. (SBU) Brigadier Walter Feichtinger of the Austrian Defense Forces Academy described the growing role of private military or security companies (PMCs) as a "worrisome development." Feichtinger said he was not describing the private security guard at the front door to the Hofburg, but for-profit

enterprises that function "like military units" and undertake "external missions." These contractors perform military missions like piloting UAVs, collecting intelligence, providing force protection, detaining and interrogating prisoners, and escorting convoys. Feichtinger asserted there were 20,000 to 40,000 military contractors "wearing weapons" in Iraq, out of as many as 180,000 contractors. Their services, he said, cost almost 150 billion dollars a year.

PMCs Appeal to "Post-Heroic Age"

¶4. (SBU) Feichtinger ascribed the growth of PMCs to the simultaneous draw-down of regular forces after the Cold War and the explosion in the number of crisis management missions. In a "post-heroic age," he posited, electorates do not want to see body bags. Instead, some of these new missions have been given to PMCs, which are not of great interest to the media or the larger population. He cited the "little-noted" 1,000 "private soldiers," killed in Iraq during the same time that the U.S. lost 4,000 of its regular forces.

¶5. (SBU) The long-term commitments required by post-Cold War conflicts such as Sudan/Darfur will increasingly be met by reliance on PMCs, he concluded, citing the recent example of the EU police mission to Afghanistan that required 500 police officers but got only 50 and filled the balance with PMC contractors. PMCs help fill gaps, Feichtinger explained, and improve capabilities, accelerate response times, and may even

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be more economical than regular forces, although on the last he was skeptical as there was still insufficient evidence. Could PMCs Threaten Democratic Control of Armed Forces?

¶6. (SBU) Feichtinger said the challenge for states is retaining effective control over the use of force. This means ensuring PMCs uphold international humanitarian law. States need to investigate and prosecute violations of these laws, as well as ordinary crimes, wherever PMCs operate. Regular armed forces need to establish command and control over PMCs to avoid friendly fire incidents.

¶7. (SBU) Feichtinger fears that growing reliance on PMCs in the absence of sufficient controls may threaten established principles of democratic control over armed forces and the state's monopoly over the legitimate use of force. PMCs, if they become too powerful, may improperly influence foreign policymaking, even operate at cross-purposes to their nominal masters in a government. Feichtinger speculated a PMC could be tempted to prolong a conflict in order to increase its earnings.

Montreux Conference

¶8. (SBU) Feichtinger said the OSCE and other international organizations could play an important role in setting international standards for PMCs. National legislation was not enough. He described the ongoing work of experts from several countries, including the U.S., on establishing norms for PMCs.

¶9. (SBU) Switzerland (von Arx) said it was co-hosting, with the International Committee of the Red Cross, the work of the experts, who will meet again September 15-17 in Montreux. A report, focused on legal issues, will be prepared at the meeting and will be made available to the OSCE.

U.S. Responses to Contractors in War Zone

¶10. (SBU) The U.S. (Neighbor) concurred that the topic was timely, noting that the U.S. Department of Defense reported

to Congress in April 2008 that it had some 163,000 persons working for contractors in Iraq, of whom about 10,000 were with private security firms. Neighbour reported on U.S. efforts to ensure the accountability and discipline of contractors, including the Military Extraterritorial Jurisdiction Act and the extension of Uniform Code of Military Justice jurisdiction to defense contractors in Iraq. Feichtinger later said, in response to a question from Spain, that the U.S. had decreed its contractors were immune from Iraq's criminal law.

¶11. (SBU) Germany (Kantorczyk) noted with approval that this was the first discussion of PMCs at the OSCE. Germany did not want PMCs to perform "core" military tasks as this would erode the state's monopoly on the use of force. Germany had great expectations for the results of the Montreux conference. Feichtinger agreed that core tasks should not be delegated, but said there was "creeping" engagement by PMCs in these areas, e.g., shooting at the enemy and piloting military aircraft.

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Ammunition Best Practices Guides

¶12. (SBU) The Forum adopted without discussion the decision to endorse the Best Practices Guides on the destruction and physical security of stockpiles of conventional ammunition (FSC.DEC/7/08).

Chair's Response to CiO on April 20 UAV Incident

¶13. (SBU) Estonia, the chair, announced it would distribute a draft of its response to the CiO on the April 20 UAV incident in Georgia (FSC.DEL/115/08). Parts noted her response was not a consensus document. Her intent is to submit it before the Annual Security Review Conference, July 1-2.

Conventional Arms Transfers

¶14. (SBU) Germany (Schweizer) explained that the revised version of the draft decision to update the OSCE conventional arms transfer reporting categories included bracketed language in operative paragraph (OP) 3 that would eliminate automatic updates and require FSC action on any future changes to the UN Register on Conventional Arms (FSC.DD/7/08/Rev.1). Additional language from UN General Assembly Resolution 61/77 has been added to OP 4 to clarify that information on SALW arms transfers within the OSCE can be provided to the UN in any format. Schweizer also recommended deleting OP 5 that would have encouraged provision of information to the UN on arms trades with non-OSCE states.

¶15. (SBU) Canada, the UK, Sweden, Luxembourg, Finland, and Switzerland supported the revisions as recommended by Germany. Russia also supported, in principle, the revisions but needs instructions from Moscow. The chair will issue another revision for consideration at the July 9 working group.

End-User Certificates

¶16. (SBU) Greece, Germany, Switzerland, and the UK support the Belarusian proposal for an information exchange and Conflict Prevention Center overview of replies (FSC.DEL/108/08), although all prefer the later reporting date, i.e., September 30, 2008. The chair will issue the paper as a draft decision with the later date.

Illicit, Rather, "Destabilizing" Air Trafficking

¶17. (SBU) The revised version of the Franco-Belgian proposal for an information exchange and list of best practices on measures to prevent the trafficking of SALW by air (FSC.DEL/62/08/Rev.2) now addresses "destabilizing" vice "illicit" transfers. Canada (Gosal) objected to this change as providing a loophole for traders to argue that a transfer is not destabilizing. Croatia, Sweden, and Russia support the latest version. Russia (Ulyanov), noting all its arms transfers were under exclusive state control, said only military or government-chartered aircraft were used to transport SALW. Italy confirmed its support, and suggested

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that the title of the decision could retain "illicit" as "destabilizing" appears in preamble paragraph 1: "excessive and destabilizing accumulation." Germany and the UK announced they had provided edits to the co-sponsors and "could live with 'illicit.'" Turkey and Romania announced they lacked instructions. Belgium, a co-sponsor, (Pauwels) said consensus was close and urged delegations to recognize "the good was the enemy of the best."

Code of Conduct

¶18. (SBU) Review by the working group of the latest draft update of the Code of Conduct Questionnaire (FSC.DEL/98/08/Rev.2) led to deletion of several bracketed sub-sections containing new material (I.3.2, I.3.3, I.3.4, II.5.5, and II.5.6). There was broad support for the most of the remaining text, although Turkey (Begec) reported its capital is still studying some passages (I.1.4, I.2.1, II.4.3) and, like Germany, objects to the bracketed question on national measures to ensure the "legitimate security concerns of other States" are taken into account" (II.1.2) as it would require divulgence of sensitive information.

¶19. (SBU) Several delegations objected to the requirement to show their military forces "act solely within . . . OSCE regulations" (II.2.3), preferring deletion of the reference to the regulations or substitution of "OSCE norms" or "OSCE principles." Germany (Schweizer) wants to insert "deployable" before "forces" in the same sub-section to emphasize that the OSCE is concerned with the behavior of operational forces, "not headquarters or training establishments."

¶20. (SBU) Sweden, supported by Canada and the UK, repeated its long-standing demand that reference to the UN Security Council Resolution 1325 on women in conflict resolution (II.5.1) be retained.

¶21. (SBU) The FSC Code of Conduct coordinator (Eischer, Austria) will issue a new revision for discussion at the July 9 working group.

Ukraine Melange Project

¶22. (SBU) Germany (Schweizer) urged "all participating States" to move the melange project in Ukraine forward so that work could begin by the autumn, noting the Secretariat's ongoing efforts to resolve some legal issues remaining in its MOU with the government of Ukraine.

¶23. (SBU) Sweden (Nilsson) announced a donation of about 1.1 million euros for the Ukraine melange project for this year, and estimated that they would provide about 600,000 euros in ¶2009.

Tajikistan SALW Project

¶24. (SBU) Austria (Waestfelt), noting 370,000 euros are still needed for the OSCE SALW and conventional ammunition project in Tajikistan, announced a donation of 30,000 euros.

Next Meeting

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¶25. (SBU) The next FSC meeting will be on July 9 and feature a Security Dialogue presentation by U.S. Assistant Secretary of Defense for Homeland Security Paul McHale; the Annual Security Review Conference will be held July 1 and 2.
FINLEY